

KEVIN V. RYAN (CASBN 118321)
United States Attorney

MARK L. KROTOSKI (CASBN 138549)
Chief, Criminal Division

BLAKE D. STAMM (CTBN 301887)
Assistant United States Attorney

450 Golden Gate Avenue, Box 36055
San Francisco, California 94102
Telephone: (415) 436-7063
Fax: (415) 436-7234

Attorneys for Plaintiff

UNITED STATES MAGISTRATE COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No. 3 06 70060 MEJ
)	
Plaintiff,)	[PROPOSED] ORDER AND
)	STIPULATION FOR CONTINUANCE
v.)	FROM OCTOBER 10, 2006 TO
)	NOVEMBER 27, 2006 AND
MICHAEL ANTHONY KENNELLY,)	EXCLUDING TIME FROM THE SPEEDY
)	TRIAL ACT CALCULATION (18 U.S.C. §
Defendant.)	3161(h)(8)(A)) AND WAIVING TIME
)	LIMITS UNDER RULE 5.1

With the agreement of the parties, and with the consent of the defendant, the Court enters this order scheduling alternatively an arraignment or preliminary hearing or status conference on November 27, 2006 at 9:30A.M. before the duty magistrate judge, and documenting the defendant's waiver of the preliminary hearing date under Federal Rule of Criminal Procedure 5.1 and the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(b), from October 10, 2006 to November 27, 2006. The parties agree, and the Court finds and holds, as follows:

1. The defendant agrees to an exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(B)(iv) to provide continuity of counsel and reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

2. The defendant waives the time limits of Federal Rule of Criminal Procedure 5.1 for preliminary hearing.

3. Counsel for the defense believes that postponing the preliminary hearing is in his client's best interest, and that it is not in his client's interest for the United States to indict the case during the normal 10-day timeline established in Rule 5.1. Counsel for the defense has specifically considered the need for additional time to continue consultations with Pretrial Services on the question of his client's eligibility for pretrial diversion.

4. The Court finds that, taking into the account the public interest in the prompt disposition of criminal cases, these grounds are good cause for extending the time limits for a preliminary hearing under Federal Rule of Criminal Procedure 5.1. Given these circumstances, the Court finds that the ends of justice served by excluding the period from October 10, 2006 to November 27, 2006 outweigh the best interest of the public and the defendant in a speedy trial. § 3161(h)(8)(A).

5. Accordingly, and with the consent of the defendant, the Court (1) alternatively sets a preliminary hearing or arraignment or status conference before the duty magistrate judge on November 27, 2006 at 9:30A.M., and (2) orders that the period from October 10, 2006 to November 27, 2006 be excluded from the time period for preliminary hearings under Federal Rule of Criminal Procedure 5.1 and from Speedy Trial Act calculations under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

IT IS SO STIPULATED:

DATED: 10/20/06

/S/
RON TYLER
Attorney for Defendant

DATED: 10/20/06

/S/
BLAKE D. STAMM
Assistant United States Attorney

IT IS SO ORDERED.

DATED: October 25, 2006

HON. ELIZABETH D. LAPORTE
United States Magistrate Judge

